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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MOSLEHI, FARHOOD

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/453,934

Applicant(s)

MOTOYAMA ET AL.

Examiner

Farhood Moslehi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5-17-2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 4
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to because Figures 23A, 24A and etc. have been crossed out and renumbered but not initialized. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-4, 7-12 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunt et al. (6,539,422) (hereinafter Hunt).

4. As per claim 1, Hunt demonstrates a computer product comprising a computer storage medium and a computer program code mechanism embedded in the computer storage medium for causing a computer to control a protocol used for data

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communications between a remote receiver and at least one of a device, an appliance, an application and an application unit, the computer program code mechanism comprising: a first computer code device configured to provide plural communications protocols capable of providing data transfer (e.g. col. 3, lines 20-23); a second computer code device configured to select a first protocol of the plural communications protocols to transfer data between the remote receiver and the at least one of a device, an appliance, an application and an application unit (e.g. col. 4, lines 13-23); a third computer code device configured to select a second protocol of the plural communications protocols to transfer data between the remote receiver and the at least one of a device, an appliance, an application and an application unit (e.g. col. 3, lines 60-67); a fourth computer code device configured to collect events at the at least one of a device, an appliance, an application and an application unit e.g. col. 2, lines 9-19); a fifth computer code device configured to attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the first protocol (e.g. col.20, lines 17-37); and a sixth computer code device configured to attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the second protocol after attempting to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the first protocol (e.g. Abstract & col. 20, lines 17-37).

5. As per claim 8, it is rejected for similar reason as stated above.

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6. As per claim 2, Hunt demonstrates a computer product wherein the first computer code device comprises a library of code shared between first and second applications (e.g. col. 19, lines 28-35).
7. As per claim 9, it is rejected for the similar reason as stated above.
8. As per claim 3, Hunt demonstrates a computer product wherein the first computer code device comprises a dynamically linked library of code shared between first and second applications (e.g. col. 19, lines 28-35).
9. As per claim 10, it is rejected for similar reason as stated above.
10. As per claim 4, Hunt demonstrates a computer product wherein the plural communications protocols comprise at least of (1) a store and forward protocol and (2) a direct connection protocol (col. 20, lines 60-68). The SNMP subagent examining the OID table and locating the correct subroutine to call in response to the SNMP request simulates the store and forward part of the communications.
11. As per claim 7, Hunt demonstrates a computer product wherein the sixth computer device comprises a seventh computer code device configured to transfer the collected events using the second protocol in order to increase redundancy (e.g. col. 23, lines 31-26).
12. As per claim 14, it is rejected for similar reason as stated above.
13. As per claim 11, Hunt demonstrates a computer product wherein the first plural communications formats comprise at least two formats selected from the group consisting of: binary, text, hypertext markup language (HTML), and extended markup language (XML) (e.g. col. 3, lines 45-55).

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14. As per claim 12, Hunt demonstrates a computer product wherein at least one of the plural communications formats comprises a compressed format (e.g. Abstract). UDP and UDP+ are considered compressed communications formats relative to TCP/IP.

15. As per claim 15, Hunt demonstrates a computer product further comprising: a seventh computer code device configured to provide plural communications protocols capable of providing data transfer; and an eighth computer code device configured to select a first protocol of the plural communications protocols to transfer data between the remote receiver and the at least one of a device, an appliance, an application and an application unit, wherein the fifth computer code device is further configured to transfer the collected events with the first protocol using the first format (e.g. col. 2, lines 62-65 and Figure 5).

16. As per claim 16 and 17, they are rejected for similar reasons as stated above.

17. Claims 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Spence et al. (6,487,581) (hereinafter Spence).

18. As per claim 18, Spence discusses a computer computer-implemented method for causing a computer to control a protocol used for data communication to a remote receiver, comprising: providing plural communications protocols capable of transferring data; selecting a first protocol of the plural communications protocols to transfer data between the remote receiver and at least one of a device, an appliance, an application and an application unit (e.g. col. 3, lines 1-15); selecting a second protocol of the plural communications protocols to transfer data between the remote receiver and the at least one of a device, an appliance, an application and an application unit (e.g. col. 4, lines

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17-24); performing a first attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the first protocol (e.g. col. 5, lines 15-25); and performing a second attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the second protocol after the first attempt (e.g. col. 4, lines 17-36 and figure 3).

19. As per claim 19, it is rejected for a similar reason as stated above.

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt in view of Yamane et al. (2003/0041093) (hereinafter Yamane).

22. Hunt does not discuss a computer program product wherein the sixth computer device comprises a seventh computer code device configured to check for a transmission failure before transferring the collected events using the second protocol. Yamane teaches using a second protocol to resend information after a transmission failure (e.g. page 7, col. 2, lines 38-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Hunt with Yamane because it would provide a computer code device configured to check for a transmission failure before transferring the collected events using the second protocol.

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23. As per claim 13, it is rejected for the similar reason as stated above.
24. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt in view of "Official Notice".
25. As per claim 5, Hunt does not specifically show the plural communications protocols comprise (1) a simple mail transfer protocol. "Official Notice" is taken that simple mail transfer protocol is another part of the TCP/IP suit of protocols and any network that supports HTTP and SNMP can also support SMTP. The advantage of SMTP lies on the fact that it is an application layer protocol, thus it is easier integrated into other applications. Moreover SMTP is the standard protocol for electronic mail communications. It would have been obvious to one of ordinary skill in the art to include SMTP as another communications protocol because it would provide for a computer program wherein the plural communications protocols comprise (1) a simple mail transfer protocol and (2) at least one of (a) a file transfer protocol and (b) a hypertext transfer protocol (e.g. Abstract).

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US patent application publication US 2003/0014505 to Ramberg et al.

US patent number 6,041,041 to Ramanathan et al.

US patent number 6,621,823 to Mellquist et al.

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27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farhood Moslehi whose telephone number is 703-305-8646. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 703-305-8498. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5484.

fm



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